

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
RECEIVED
NORTHERN DIVISION

2005 DEC 27 A 9:51

Richard Wayne Wright, sr., *

Plaintiff Pro-Se, *

-VS-

Sylvester Nettles, et. al., *

Defendants. *

Civil Action No:

* 2:05-CV-439-A-WO

Plaintiff Wright's Motion To Object To
Dr. William Sanders Response To Object To
Show Cause And Attach Affidavit

I am Richard Wayne Wright, Sr., Plaintiff, Pro-Se, in the encaptioned matter and ask this Honorable Court the Following:

1). That defendant Dr. William Sanders (hereafter referred to as (Dr. Sanders)) remained as a part of plaintiff Wright Complaint. For which many of the issues which refer to mental Health Management (hereafter referred to as (MHM)) in plaintiff Wright Complaint are directly related to Dr. Sanders Job task and he is knowledgeable about plaintiff Wright (said) Condition or Condition(s).

Plaintiff Wright did properly name defendant Dr. Sanders to preserve his rights to be protected. (Eagerton v- Williams 433 So. 2d. 436 appeal after remand McWhorter v- Williams 460 So. 2d. 850).

Where in plaintiff Complaint brought against

Where in plaintiff Complaint brought against Dr. Sanders as part of (M.H.M.) and is the real party in interest and must be considered sole party of records. Concerning plaintiff Wright (said) ~~noted~~ ^{R.W.W.} Mental Health Status (Code of Ala. Title 7 §§ 126 - 128).

2). Plaintiff Wright did his best to properly name defendant Dr. Sanders and submitted to this Honorable Court the last known address of Dr. Sanders which was Bullock Correctional Facility, Post Office Box 5107, Union Springs, Alabama 36089.

Due to the separation of the defendant's Counsel(s) plaintiff could only wait until each party responded as directed by this Honorable Court. These that's were named (other than those which has not responded which was and is a part of this (said) Complaint has been indicated (other wise) by this Honorable Court and to plaintiff Wright) and are employed at (B.C.F.) did receive and respond in some (Forms) through or by their Counselors).

Defendant Dr. Sanders should not be allowed to further prejudice plaintiff

Wright Complaint by being permitted to be abstracted From (Such) proceeding when [he] Failed to show "why" [he] was not served as his co-workers were this said Complaint and waited until now to respond in such manner requesting dismissal. Neither have Dr. Sanders showed this Honorable Court "why" summary Judgement should not be imposed by default.

3). For such reasons as prescribed by law may this Court Construed plaintiff Complaint and claims against Dr. Sanders (MHM) as true in light most Favorable to plaintiff and render such Judgment as it deems necessary to prevent prejudicing plaintiff Wright Complaint and proceed in the adjudication of [these] matters.

Effects of "real party in interest" rule is that action must be brought by person who is entitled to enforce rights claimed therein; who has such right is matter of substantive law of the particular jurisdiction. Rules of Civil Procedure, Rule 17(a). U-Haul Co. of Alabama -v- Turner, 355 So. 2d. 384 (Ala. Civ. App. 1979)

Purpose of "real party in interest" rule is to protect defendant From subsequent action by ~~actual~~^{R.W.W.} party actually entitled to recover and to ensure that Judgment

Will have res judicata effects. Rules of Civil Procedure, Rule 17(a), U-Haul Co. of Alabama v- Turner 355 So.2d. 384.

EFFECT of real party in interest" rule is that action must be brought by person who is entitled to enforce rights claimed therein who has such right as matter of substantive law of particular jurisdiction. Rule of Civil Procedure, Rule 17(a). City Car Sales, Inc v McAipin, 380 So. 2d. 865. Writ denied Ex parte City Car Sales, Inc 380 So. 2d 869.) (Ala. Civ. App. 1979)

Purpose of Civil procedural rule stating that every action shall be prosecuted in name of real party interest is to protect defendant for subsequent action by party actually entitled to recover and ensure that Judgment will have res judicata effect. Rule of Civil Procedure, Rule 17(a) (Smith v- Springsteen 385 So. 2d. 56).

IF this Motion is not in its proper Form plaintiff Wright earnestly ask that this Honorable Court Construed this (said) motion into its proper Form.

Done this the 23th day of December 2005.

Respectfully Submitted,

Richard W. Wright, Sr.
Richard Wayne Wright, Sr. # 187140
Ventress Correctional Facility
Infirmary Room # 103
Post Office Box 767
Clayton, Alabama 36016

Certificate of Service

This is to Certify that I Richard Wayne Wright, Sr., am the Plaintiff, Pro-Se. in the above encaptioned motion and Certify I have sent this motion to the Clerk of this Court and earnestly ask due to plaintiff indigent status that this Honorable Court and/or Clerk Forward a Copy of this (said) motion " Plaintiff Wright's Motion To Object To Dr. William Sanders Response To order To Show Cause And Attach Affidavit" to defendant's Counsel(s) which are as Following:

Troy King (Attorney General)
State Bar # ASB-5949-5615
Steven Mallette Sirmon
(Assistant Attorney General)
Hugh Davis (Attorney)
Alabama Board Pardon and Paroles
Post Office Box 302405

Montgomery, Alabama 36130

David B. Block (ASB-5098-K62D)
William R Lunsford (ASB-4265-L72L)
Douglas B. Hargett (ASB-9928-581H)
Balch & Bingham LLP
Post Office Box 18668
Huntsville, Alabama 35804-8668

Kim T. Thomas
Gregory Marion Biggs
Alabama Department of Correction
Legal Division
301 Ripley street
Montgomery, Alabama 36130

Gregory F. Yaghmai
Scott, Sullivan, Streetman & Fox, P.C.
2450 Valleydale Road
Birmingham, Alabama 35244

by placing this motion in the United States mail box at Ventress Correctional Facility by (hand delivery) to the officer on duty with First Class postage (Stamps) prepaid and properly address this on the 23rd day of December, 2005.

Done this on the 23rd day of

December, 2005.

Respectfully Submitted,

Richard W. Wright, Jr.
Richard Wayne Wright, Sr., #187140
Plaintiff, Pro-se.
28 USC 1746